

(c) POINTS AND FEES DEFINED.—

(1) IN GENERAL.—Section 103(aa)(4) of the Truth in Lending Act (15 U.S.C. 1602(aa)(4)) is amended—

(A) by striking subparagraph (B) and inserting the following:

“(B) all compensation paid directly or indirectly by a consumer or creditor to a mortgage broker from any source, including a mortgage originator that originates a loan in the name of the originator in a table-funded transaction;”;

(B) in subparagraph (C)(ii), by inserting “except where applied to the charges set forth in section 106(e)(1) where a creditor may receive indirect compensation solely as a result of obtaining distributions of profits from an affiliated entity based on its ownership interest in compliance with section 8(c)(4) of the Real Estate Settlement Procedures Act of 1974” before the semicolon at the end;

(C) in subparagraph (C)(iii), by striking “; and” and inserting “, except as provided for in clause (ii);”;

(D) by redesignating subparagraph (D) as subparagraph (G); and

(E) by inserting after subparagraph (C) the following new subparagraphs:

“(D) premiums or other charges payable at or before closing for any credit life, credit disability, credit unemployment, or credit property insurance, or any other accident, loss-of-income, life or health insurance, or any payments directly or indirectly for any debt cancellation or suspension agreement or contract, except that insurance premiums or debt cancellation or suspension fees calculated and paid in full on a monthly basis shall not be considered financed by the creditor;

“(E) except as provided in subsection (cc), the maximum prepayment fees and penalties which may be charged or collected under the terms of the credit transaction;

“(F) all prepayment fees or penalties that are incurred by the consumer if the loan refinances a previous loan made or currently held by the same creditor or an affiliate of the creditor; and”.

(2) CALCULATION OF POINTS AND FEES FOR OPEN-END CONSUMER CREDIT PLANS.—Section 103(aa) of the Truth in Lending Act (15 U.S.C. 1602(aa)) is amended—

(A) by redesignating paragraph (5) as paragraph (6); and

(B) by inserting after paragraph (4) the following new paragraph:

“(5) CALCULATION OF POINTS AND FEES FOR OPEN-END CONSUMER CREDIT PLANS.—In the case of open-end consumer credit plans, points and fees shall be calculated, for purposes of this section and section 129, by adding the total points and fees known at or before closing, including the maximum prepayment penalties which may be charged or collected under the terms of the credit transaction, plus the minimum additional fees the consumer would be required to pay to draw down an amount equal to the total credit line.”.

(d) HIGH COST MORTGAGE LENDER.—Section 103(f) of the Truth in Lending Act (15 U.S.C. 1602(f)) is amended by striking the last sentence and inserting the following new sentence: “Any person who originates or brokers 2 or more mortgages referred to in subsection (aa) in any 12-month period, any person who originates 1 or more such mortgages through a mortgage broker in any 12 month period, or, in connection with a table funding transaction of such a mortgage, any person to whom the obligation is initially assigned at or after settlement shall be considered to be a creditor for purposes of this title.”.

(e) BONA FIDE DISCOUNT LOAN DISCOUNT POINTS AND PREPAYMENT PENALTIES.—Section 103 of the Truth in Lending Act (15 U.S.C. 1602) is amended by inserting after subsection (cc) (as added by section 121) the following new subsection:

“(dd) BONA FIDE DISCOUNT POINTS AND PREPAYMENT PENALTIES.—For the purposes of deter-

mining the amount of points and fees for purposes of subsection (aa), either the amounts described in paragraphs (1) or (4) of the following paragraphs, but not both, may be excluded:

“(1) EXCLUSION OF BONA FIDE DISCOUNT POINTS.—The discount points described in 1 of the following subparagraphs shall be excluded from determining the amounts of points and fees with respect to a high-cost mortgage for purposes of subsection (aa):

“(A) Up to and including 2 bona fide discount points payable by the consumer in connection with the mortgage, but only if the interest rate from which the mortgage's interest rate will be discounted does not exceed by more than 1 percentage point the required net yield for a 90-day standard mandatory delivery commitment for a reasonably comparable loan from either the Federal National Mortgage Association or the Federal Home Loan Mortgage Corporation, whichever is greater.

“(B) Unless 2 bona fide discount points have been excluded under subparagraph (A), up to and including 1 bona fide discount point payable by the consumer in connection with the mortgage, but only if the interest rate from which the mortgage's interest rate will be discounted does not exceed by more than 2 percentage points the required net yield for a 90-day standard mandatory delivery commitment for a reasonably comparable loan from either the Federal National Mortgage Association or the Federal Home Loan Mortgage Corporation, whichever is greater.

“(2) DEFINITION.—For purposes of paragraph (1), the term ‘bona fide discount points’ means loan discount points which are knowingly paid by the consumer for the purpose of reducing, and which in fact result in a bona fide reduction of, the interest rate or time-price differential applicable to the mortgage.

“(3) EXCEPTION FOR INTEREST RATE REDUCTIONS INCONSISTENT WITH INDUSTRY NORMS.—Paragraph (1) shall not apply to discount points used to purchase an interest rate reduction unless the amount of the interest rate reduction purchased is reasonably consistent with established industry norms and practices for secondary mortgage market transactions.

“(4) ALLOWANCE OF CONVENTIONAL PREPAYMENT PENALTY.—Subsection (aa)(1)(4)(E) shall not apply so as to include a prepayment penalty or fee that is authorized by law other than this title and may be imposed pursuant to the terms of a high-cost mortgage (or other consumer credit transaction secured by the consumer's principal dwelling) if—

“(A) the annual percentage rate applicable with respect to such mortgage or transaction (as determined for purposes of subsection (aa)(1)(A)(i))—

“(i) in the case of a first mortgage on the consumer's principal dwelling, does not exceed by more than 2 percentage points the yield on Treasury securities having comparable periods of maturity on the 15th day of the month immediately preceding the month in which the application for the extension of credit is received by the creditor; or

“(ii) in the case of a subordinate or junior mortgage on the consumer's principal dwelling, does not exceed by more than 4 percentage points the yield on such Treasury securities; and

“(B) the total amount of any prepayment fees or penalties permitted under the terms of the high-cost mortgage or transaction does not exceed 2 percent of the amount prepaid.”.

SEC. 302. AMENDMENTS TO EXISTING REQUIREMENTS FOR CERTAIN MORTGAGES.

(a) PREPAYMENT PENALTY PROVISIONS.—Section 129(c)(2) of the Truth in Lending Act (15 U.S.C. 1639(c)(2)) is amended—

(1) by striking “and” after the semicolon at the end of subparagraph (C);

(2) by redesignating subparagraph (D) as subparagraph (E); and

(3) by inserting after subparagraph (C) the following new subparagraph:

“(D) the amount of the principal obligation of the mortgage exceeds the maximum principal obligation limitation (for the applicable size residence) under section 203(b)(2) of the National Housing Act for the area in which the residence subject to the mortgage is located; and”.

(b) NO BALLOON PAYMENTS.—Section 129(e) of the Truth in Lending Act (15 U.S.C. 1639(e)) is amended to read as follows:

“(e) NO BALLOON PAYMENTS.—No high-cost mortgage may contain a scheduled payment that is more than twice as large as the average of earlier scheduled payments. This subsection shall not apply when the payment schedule is adjusted to the seasonal or irregular income of the consumer.”.

(c) NO LENDING WITHOUT DUE REGARD TO ABILITY TO REPAY.—Section 129(h) of the Truth in Lending Act (15 U.S.C. 1639(h)) is amended—

(1) by striking “PAYMENT ABILITY OF CONSUMER.—A creditor shall not” and inserting “PAYMENT ABILITY OF CONSUMER.—

“(1) PATTERN OR PRACTICE.—

“(A) IN GENERAL.—A creditor shall not”;

(2) by inserting after subparagraph (A) (as so designated by paragraph (1) of this subsection) the following new subparagraph:

“(B) PRESUMPTION OF VIOLATION.—There shall be a presumption that a creditor has violated this subsection if the creditor engages in a pattern or practice of making high-cost mortgages without verifying or documenting the repayment ability of consumers with respect to such mortgages.”; and

(3) by adding at the end the following new paragraph:

“(2) PROHIBITION ON EXTENDING CREDIT WITHOUT REGARD TO PAYMENT ABILITY OF CONSUMER.—

“(A) IN GENERAL.—A creditor may not extend credit to a consumer under a high-cost mortgage unless a reasonable creditor would believe at the time the mortgage is closed that the consumer or consumers that are residing or will reside in the residence subject to the mortgage will be able to make the scheduled payments associated with the mortgage, based upon a consideration of current and expected income, current obligations, employment status, and other financial resources, other than equity in the residence.

“(B) PRESUMPTION OF ABILITY.—For purposes of this subsection, there shall be a rebuttable presumption that a consumer is able to make the scheduled payments to repay the obligation if, at the time the high-cost mortgage is consummated, the consumer's total monthly debts, including amounts under the mortgage, do not exceed 50 percent of his or her monthly gross income as verified by tax returns, payroll receipts, or other third-party income verification.”.

SEC. 303. ADDITIONAL REQUIREMENTS FOR CERTAIN MORTGAGES.

(a) ADDITIONAL REQUIREMENTS FOR CERTAIN MORTGAGES.—Section 129 of the Truth in Lending Act (15 U.S.C. 1639) is amended—

(1) by redesignating subsections (j), (k) and (l) as subsections (n), (o) and (p) respectively; and

(2) by inserting after subsection (i) the following new subsections:

“(f) RECOMMENDED DEFAULT.—No creditor shall recommend or encourage default on an existing loan or other debt prior to and in connection with the closing or planned closing of a high-cost mortgage that refinances all or any portion of such existing loan or debt.

“(k) LATE FEES.—

“(1) IN GENERAL.—No creditor may impose a late payment charge or fee in connection with a high-cost mortgage—

“(A) in an amount in excess of 4 percent of the amount of the payment past due;

“(B) unless the loan documents specifically authorize the charge or fee;

“(C) before the end of the 15-day period beginning on the date the payment is due, or in the case of a loan on which interest on each installment is paid in advance, before the end of the 30-day period beginning on the date the payment is due; or